1998 CASE DIGEST INDEX
VOLUME 34

Editor's Note: The cases in the Index have been classified to conform to the *Criminal Law Digest* (third edition).

CONTENTS

PART I—STATE CRIMES

3. NATURE AND ELEMENTS OF SPECIFIC CRIMES

§ 3.105 Escape from custody 559
§ 3.110 Family offenses 559
§ 3.115 —Child abuse 559
§ 3.130 Firearms violations 559
§ 3.135 —Illegal possession 559
§ 3.140 —Dangerous and deadly weapons 559
§ 3.250 Felony murder 559
§ 3.375 Robbery 559
§ 3.380 —Armed 559

5. PARTIES

§ 5.05 Aiders and abettors 559

6. DEFENSES

§ 6.17 Duress 559
§ 6.70 Statute of limitations 559

PART II—STATE CRIMINAL PROCEDURES, ANCILLARY PROCEEDINGS

7. JURISDICTION AND VENUE

§ 7.05 Venue 559

10. PRETRIAL MOTIONS

§ 10.15 Severance 559
§ 10.50 Pretrial witness interviews ... 559

12. GUILTY PLEAS

§ 12.30 Duty to inquire as to voluntariness of plea 560

13. EVIDENCE

ADMISSIBILITY AND WITNESSES

§ 13.30 Necessity of laying foundation 560
§ 13.55 Proof of other bad acts 560
§ 13.95 Opinion evidence 560
§ 13.115 Identification evidence 560
§ 13.151 —DNA printing tests 560
§ 13.180 Witness's assertion of privilege against self-incrimination—effect 560
§ 13.315 Hearsay evidence 560
§ 13.320 Recorded statements 560
§ 13.331 —Victim's state of mind 560
§ 13.430 Corpus delicti 560

14. TRIAL

§ 14.50 Absence of defendant or counsel 560

15. JURY

INSTRUCTIONS

§ 15.135 Duty to charge on insanity ... 560
§ 15.235 Supplemental instructions 560

VERDICT

§ 15.325 Guilty but mentally ill 560

17. SENTENCING AND PUNISHMENT

SENTENCING

§ 17.32 Right to pre-sentence mental examination 560
§ 17.86 Changes in sentencing statutes 560

PUNISHMENT

§ 17.96 Effect of erroneous release ... 561

§ 17.101 Imposition of restitution 561
§ 17.125 Multiple punishment—in general 561
§ 17.145 —Enhancement 561
§ 17.150 —What constitutes a prior felony conviction 561
§ 17.190 Sex offender registration laws 561

18. APPEAL AND ERROR

§ 18.20 Waiver of right to appeal 561
§ 18.30 —Ineffective assistance of appellate counsel 561
§ 18.60 Jurisdiction 561
§ 18.65 —Failure to file timely notice of appeal 561

21. ANCILLARY PROCEEDINGS

EXTRADITION PROCEEDINGS

§ 21.25 —Scope of hearing 561

PART III—FEDERAL CRIMES

24. NATURE AND ELEMENTS OF SPECIFIC CRIMES

§ 24.15 Bank-related crimes generally 561
§ 24.45 Conspiracy 561
§ 24.90 False statement to federal department or agency 561
§ 24.100 Firearms violations 562
§ 24.115 Fraud 562
§ 24.135 Hobbs Act 562
§ 24.190 Mail fraud 562

PART IV—FEDERAL PROCEDURES

28. JURISDICTION AND VENUE

§ 28.25 Concurrent federal and state jurisdiction 562

29. PRELIMINARY PROCEEDINGS

§ 29.30 Competency proceedings 562

31. PRETRIAL MOTIONS

§ 31.00 Sufficiency of indictment attached 562

32. DISCOVERY

§ 32.00 In general 562
§ 32.15 —Identity of witnesses

33. GUILTY PLEAS

§ 33.15 Accepting plea 562

34. EVIDENCE

ADMISSIBILITY AND WITNESSES

§ 34.15 Relevancy and prejudice 562
§ 34.45 Proof of other crimes to show motive, intent, etc. 562
§ 34.95 Identification evidence 562
§ 34.170 Cross-examination procedures 563
§ 34.180 —Impeachment by prior conviction 563
§ 34.220 Hearsay evidence 563
§ 34.235 —Declarations of co-conspirators 563

35. THE TRIAL

§ 35.85 Restrictions on right of cross-examination 563
§ 35.100 Discretion to prosecute 563

36. THE JURY

SELECTION

§ 36.00 Requirement of an impartial jury 563
§ 36.20 Exclusion of jurors in capital cases 563
§ 36.30 Peremptory challenges 563

INSTRUCTIONS

§ 36.95 Duty to charge on essential elements of crime 563
§ 36.110 Intent and willfulness 563
§ 36.115 Lesser included offenses 563

VERDICTS

§ 36.205 Special verdicts 564

37. POST-TRIAL MOTIONS

§ 37.35 Federal habeas corpus 564
§ 37.60 —Burden of proof 564
§ 37.65 —Procedure 564
§ 37.75 Motion to modify sentence

38. SENTENCING AND PUNISHMENT

SENTENCING

§ 38.25 Delay in sentencing 564
§ 38.30 Standards for imposing sentence 564

PUNISHMENT

§ 38.60 Credit for time spent in custody prior to sentencing .. 565
§ 38.83 Multiple offender sentences . 565
§ 38.96 —Enhancement

39. THE APPEAL

§ 39.00 Right to appeal 565

40. PROBATION AND PAROLE

§ 40.25 Revocation of parole 565

41. PRISONER PROCEEDINGS

§ 41.40 Access to legal assistance and courts 565
§ 41.45 Other actions under Federal Civil Rights Act 565
§ 41.50 —Immunity 565

42. ANCILLARY PROCEEDINGS

CONTEMPT

§ 42.00 Civil and criminal contempt distinguished 565

DEPORTATION

§ 42.25 In general 565

DEPRIVATION OF CIVIL RIGHTS

§ 42.30 In general 565

EXTRADITION

§ 42.50 Foreign sovereigns 565

FORFEITURE

§ 42.60 In general 566

PART V—CONSTITUTIONAL GUARANTEES

43. ADMISSIONS AND CONFESSIONS

GROUNDS FOR EXCLUSION: GENERALLY

§ 43.00 Involuntariness and coercion 566
§ 43.15 —Trickery 566
§ 43.16 —Intoxication 566
§ 43.45 Absence of counsel 566

VIOLATIONS OF *MIRANDA* STANDARDS AS GROUNDS FOR EXCLUSION

§ 43.60 Prerequisite of custodial interrogation 566
§ 43.65 —Interpretations by state courts 566
§ 43.90 Waiver of *Miranda* rights 566
§ 43.95 —Voluntary and intelligent requirement 566
§ 43.125 Use of statement obtained in violation of *Miranda*—impeachment exception 566

44. CONFRONTATION OF WITNESSES

§ 44.15 Co-defendant's out-of-court statements 566
§ 44.25 —Limitations on right to cross-examine 566

45. RIGHT TO COUNSEL

SCOPE AND EXTENT OF RIGHT GENERALLY

§ 45.15 Absence of counsel during portion of proceedings 566

ADEQUACY AND EFFECTIVENESS OF COUNSEL

§ 45.110 Ineffectiveness 566
§ 45.130 —Failure of introduce evidence or make objections 567

46. CRUEL AND UNUSUAL PUNISHMENT

§ 46.05 Death penalty 567
§ 46.10 —Statutory requirements 567

47. DOUBLE JEOPARDY

§ 47.00 In general 567
§ 47.40 Implied acquittal 567
§ 47.45 Separate and district offenses 567
§ 47.50 —Same transaction 567
§ 47.55 Administrative proceedings . 567

48. DUE PROCESS

§ 48.00 In general 567
§ 48.10 Felonious homicide 567
§ 48.30 —Sex crimes 567

50. EX POST FACTO

§ 50.05 Applicability to sentencing .. 567

51. FREEDOM OF THE PRESS

§ 51.00 In general 567

55. RIGHT TO JURY TRIAL

§ 55.10 Shackles and restraints 567

58. PROHIBITION AGAINST UNLAWFUL SEARCHES AND SEIZURES

SCOPE AND EXTENT OF RIGHT IN GENERAL

§ 58.00 What constitutes a search 567
§ 58.05 Constitutionally protected areas 568
§ 58.10 Property subject to seizure ... 568
§ 58.17 —Plain feel 568
§ 58.30 —Automobile searches 568
§ 58.32 Car passengers 568
§ 58.50 Search by private person 568
§ 58.55 Search of parolees 568
§ 58.70 Stop and frisk 568
§ 58.72 Police restrictions on access to premises 568

BASIS FOR MAKING SEARCH AND/OR SEIZURE

§ 58.77 Anticipatory search warrants 568
§ 58.80 —Sufficiency of underlying affidavit 568
§ 58.90 —Manner of execution 568
§ 58.105 Search incident to a valid arrest 568
§ 58.110 —Probable case 568
§ 58.120 —Manner of making arrest or entering premises as affecting validity of subsequent arrest or search .. 568
§ 58.130 Investigative stops 568

ELECTRONIC EAVESDROPPING

§ 58.135 In general 568

CONSENT AND WAIVER

§ 58.170 In general 569
§ 58.180 —Voluntariness of consent .. 569
§ 58.185 —Third-party consent 569

FRUITS OF THE POISONOUS TREE

§ 58.230 Evidence held admissible

59. PROHIBITION AGAINST SELF-INCRIMINATION

TESTIMONY AND RECORDS

§ 59.30 Right to refuse examination by state psychiatrist 569

NONTESTIMONIAL ASPECTS

§ 59.75 Drunk-driving tests 569

60. RIGHT TO SPEEDY TRIAL

§ 60.05 Length of delay 569
§ 60.10 —Computation of delay 569